

NOTICE

This opinion is subject to further editing and modification. The final version will appear in the bound volume of the official reports.

No. 98-1276

STATE OF WISCONSIN

:

IN SUPREME COURT

Donald Rumage,

Plaintiff-Appellant,

v.

Robert M. Gullberg, Janet Gullberg,
Advantage Bank F.S.B., and The Bank of
Elmwood,

Defendants-Respondents.

FILED

OCT 19, 2000

Cornelia G. Clark
Clerk of Supreme Court
Madison, WI

¶1 PER CURIAM (*on motion for reconsideration*).
Plaintiff-Appellant Donald Rumage moves for reconsideration of our decision in Rumage v. Gullberg, 2000 WI 53, 235 Wis. 2d 279, 611 N.W.2d 458, on grounds that the court overlooked a controlling fact appearing in the record. Rumage argues that Reinier Kemeling sold his residential property in a voluntary private sale, during a mortgage foreclosure redemption period, in contemplation of an imminent sheriff's sale. He argues that a sale under these circumstances was a sale under "compulsion," not an arms-length transaction under no compulsion that produces fair market value.

¶2 After careful consideration, we conclude that appellant's argument is without merit in this case. In ¶ 45 of the court's opinion we state: "Judge Simanek found no evidence of collusion or fraud between Kemeling and Burmeister." This sentence is herewith amended to read: "Judge Simanek found no evidence of compulsion, collusion or fraud between Kemeling and Burmeister." The record does not demonstrate that the circuit court's finding was clearly erroneous.

¶3 The motion for reconsideration is denied without costs.

